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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re TIFFANY POE,

Case No. 09-45151-A-7

Debtor.

MEMORANDUM

The court issued an order to show cause due to the debtor's filing of this bankruptcy case in violation of an injunction issued on February 10, 2009. That injunction prohibited the debtor from filing, without prior court approval, a bankruptcy petition for one year. See Adv. Proc. No. 08-2679, Docket No. 15. The debtor did not obtain court approval before filing this case.

If a person disobeys a specific and definite court order, he may be properly adjudged in contempt. Crystal Palace Gambling Hall, Inc. v. Mark Twain Industries, Inc. (In re Crystal Palace Gambling Hall, Inc.), 817 F.2d 1361, 1365 (9th Cir. 1987); Dyer v. Knupfer (In re Dyer), 322 F.3d 1178, 1190-91 (9th Cir. 2003). A person disobeys an order when he fails to take "all the

1 reasonable steps within [his] power to insure compliance with the
2 [court's] order." Crystal at 1365 (citing Shuffler v. Heritage
3 Bank, 720 F.2d 1141, 1146-47 (9th Cir. 1983)).

4 Bankruptcy courts have statutory power to sanction
5 contumacious conduct and to impose civil contempt sanctions.
6 Dyer at 1189-90; see also In re Karl, 313 B.R. 827, 830 (Bankr.
7 W.D. Mo. 2004) (citing 11 U.S.C. § 105(a) and Mountain America
8 Credit Union v. Skinner (In re Skinner), 917 F.2d 444, 447 (10th
9 Cir. 1990)). This power is derived from 11 U.S.C. § 105(a),
10 which provides that:

11 "The court may issue any order, process, or judgment that is
12 necessary or appropriate to carry out the provisions of this
13 title. No provision of this title providing for the raising of an
14 issue by a party in interest shall be construed to preclude the
15 court from, sua sponte, taking any action or making any
16 determination necessary or appropriate to enforce or implement
17 court orders or rules, or to prevent an abuse of process."

18 Dyer at 1189-90.

19 The court's February 10, 2009 injunction prohibited the
20 debtor from filing any petition under title 11 for one year
21 without court approval, and it further provides that the debtor
22 may file a bankruptcy petition after the expiration of the one-
23 year period only if she pays the filing fee in full and pays
24 \$1,233, representing the outstanding filing fees in the debtor's
25 prior cases, including Case Nos. 07-24204, 07-29279, 08-27493,
26 and 08-30896. See Docket No. 15, Adv. Proc. No. 08-2679.

27 In addition to the foregoing cases, the debtor has filed
28 Case Nos. 08-22512, 08-35163, 09-22083, and 09-36839. This case

1 is the debtor's ninth case since June 5, 2007. All cases are
2 deficient in one respect or another, including failure to file
3 schedules, failure to file statements, failure to file a plan,
4 failure to make plan payments, failure to pay filing fees,
5 failure to list prior bankruptcy cases, and failure to appear at
6 creditors' meetings.

7 On June 5, 2007, the debtor filed a chapter 13 case, Case
8 No. 07-24204. It was dismissed on July 31, 2007 due to the
9 debtor's failure to make the first filing fee installment
10 payment.

11 On November 1, 2007, the debtor filed a chapter 13 case,
12 Case No. 07-29279. It was dismissed on February 27, 2008 due to
13 the debtor's failure to make plan payments.

14 On March 3, 2008, the debtor filed a chapter 13 case, Case
15 No. 08-22512. It was dismissed on June 4, 2008 due to the
16 debtor's failure to file a plan and make a plan payment.

17 On June 5, 2008, the debtor filed a chapter 13 case, Case
18 No. 08-27493. It was dismissed on August 5, 2008 due to the
19 debtor's failure to make the first filing fee installment
20 payment.

21 On August 6, 2008, the debtor filed a chapter 13 case, Case
22 No. 08-30896. It was dismissed on October 14, 2008 due to the
23 debtor's failure to make the first filing fee installment
24 payment.

25 On October 21, 2008, the debtor filed a chapter 13 case,
26 Case No. 08-35163. It was dismissed on December 22, 2008 due to
27 the debtor's failure to make the first filing fee installment
28 payment.

1 On December 8, 2008, the U.S. Trustee filed an adversary
2 proceeding complaint against the debtor (Adv. Pro. No. 08-2679),
3 seeking dismissal of the bankruptcy case and a two-year
4 injunction against the debtor's filing of additional bankruptcy
5 cases. In connection with that case, on February 10, 2009, the
6 court issued an injunction prohibiting the debtor from filing any
7 petition under title 11 for one year without court approval and
8 providing that the debtor may file a bankruptcy petition after
9 the expiration of the one-year period only if she pays the filing
10 fee in full and pays \$1,233, representing the outstanding filing
11 fees in four of the debtor's prior cases. See Docket No. 15,
12 Adv. Proc. No. 08-2679.

13 On February 6, 2009, the debtor filed a chapter 13 case,
14 Case No. 09-22083. It was dismissed on May 6, 2009 due to the
15 debtor's violation of the February 10, 2009 injunction and her
16 failure to appear at a meeting of creditors.

17 On August 10, 2009, the debtor filed a chapter 13 case, Case
18 No. 09-36839. It was dismissed on November 2, 2009 due to the
19 debtor's failure to attend a meeting of creditors. Prior to the
20 dismissal, on September 14, 2009, at a hearing on the debtor's
21 motion to extend the automatic stay, the court informed the
22 debtor of the February 10, 2009 injunction, informed her of the
23 terms of that injunction, and informed her that the filing of the
24 case had been in violation of the injunction. See Docket No. 20.

25 Nevertheless, the debtor again filed a chapter 7 case, Case
26 No. 09-45151 on November 17, 2009, without prior court permission
27 to do so. And, the debtor has not filed her schedules,
28 statements, and means testing form. Nor has she paid any of the

1 filing fee. Also, the debtor has not listed all prior bankruptcy
2 cases filed within the last eight years. The petition references
3 only the case filed in August 2009.

4 Further, the debtor did not appear at the December 21
5 hearing.

6 This is the debtor's ninth bankruptcy case since June 5,
7 2007 and it is the second case filed in violation of the
8 injunction. The debtor filed this case despite the court warning
9 her, in open court at an earlier hearing in Case No. 09-36839,
10 that she could not file petitions without prior court permission.

11 The debtor is in contempt of court due to her failure to
12 obey the injunction. As sanctions, this case shall be dismissed
13 with prejudice pursuant to 11 U.S.C. §§ 349(a) and 707(a)(1),
14 (2), and because the debtor has not obeyed the injunction the
15 court will extend the one-year prohibition on her filing of
16 future petitions for a period of one year from the date of entry
17 of the order on this ruling.

18 The court reserves jurisdiction over any motion for further
19 sanctions against the debtor.

20 A separate order will be entered.

21 Dated: December 30, 2009

By the Court

22 
23

24 Michael S. McManus, Judge
25 United States Bankruptcy Court
26
27
28

CERTIFICATE OF MAILING

I, Susan C. Cox, in the performance of my duties as a
judicial assistant to the Honorable Michael S. McManus, mailed by
ordinary mail to each of the parties named below a true copy of
the attached document.

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Dated: December 30, 2009



Susan C. Cox
Judicial Assistant to Judge McManus